



TO: John McDonough, City Manager

FROM: Garrin M. Coleman, P.E., Public Works Director

DATE: January 22, 2015, for Submission onto the Consent Agenda of the February 3, 2015 City Council Meeting

ITEM: Acceptance of the Option to Purchase Right of Way, Permanent Drainage and Temporary Construction Easements on the T-7229 Powers Ferry Road @ Heards Drive Intersection Project.

Recommendation:

Staff recommends that the Mayor and City Council accept the Option to Purchase Right of Way, Permanent Drainage and Temporary Construction Easements on the T-7229 Powers Ferry Road @ Heards Drive Intersection Project; on all that tract or parcel of land lying and located in Land Lot 166 of the 17th District, Fulton County, Georgia. The property as shown in the attached exhibits is owned by Voya Insurance and Annuity Company, and is located near the intersection of Powers Ferry Road and Heards Drive and furthermore bound by I-285 in Sandy Springs, Georgia. The Right of Way area consists of 7,885.34 square feet, the Permanent Drainage Easement area consists of 453.05 square feet and the Temporary Construction Easement area consists of 10,870.54 square feet.

Background:

The acquisition of Right of Way, Permanent Drainage and Temporary Construction easements is necessary in order to construct the Project. The Owner is seeking compensation based upon a recent sale of adjacent property to the Fulton County Public Schools. The owner is not requesting compensation for either one of the easements; only the right of way.

Discussion:

The agreed upon settlement is fair and reasonable. A Donation was suggested, but legal requirements would not allow the owner to donate. This is also the most critical-path parcel of right of way to acquire in order to re-align the intersection prior to the new elementary school that will open in the Fall of 2015.

Alternatives:

The City could elect to forego the construction of the intersection project.

Financial Impact:

The agreed upon compensation is \$71,225.00 and includes compensation for the owner's legal fees as well.

PUBLIC WORKS

Attachments:

I. Exhibits

- Aerial and GIS Maps
- Executed Option Agreement (including Plats and Legal Descriptions)

II. Resolution



Voya Insurance and Annuity Company

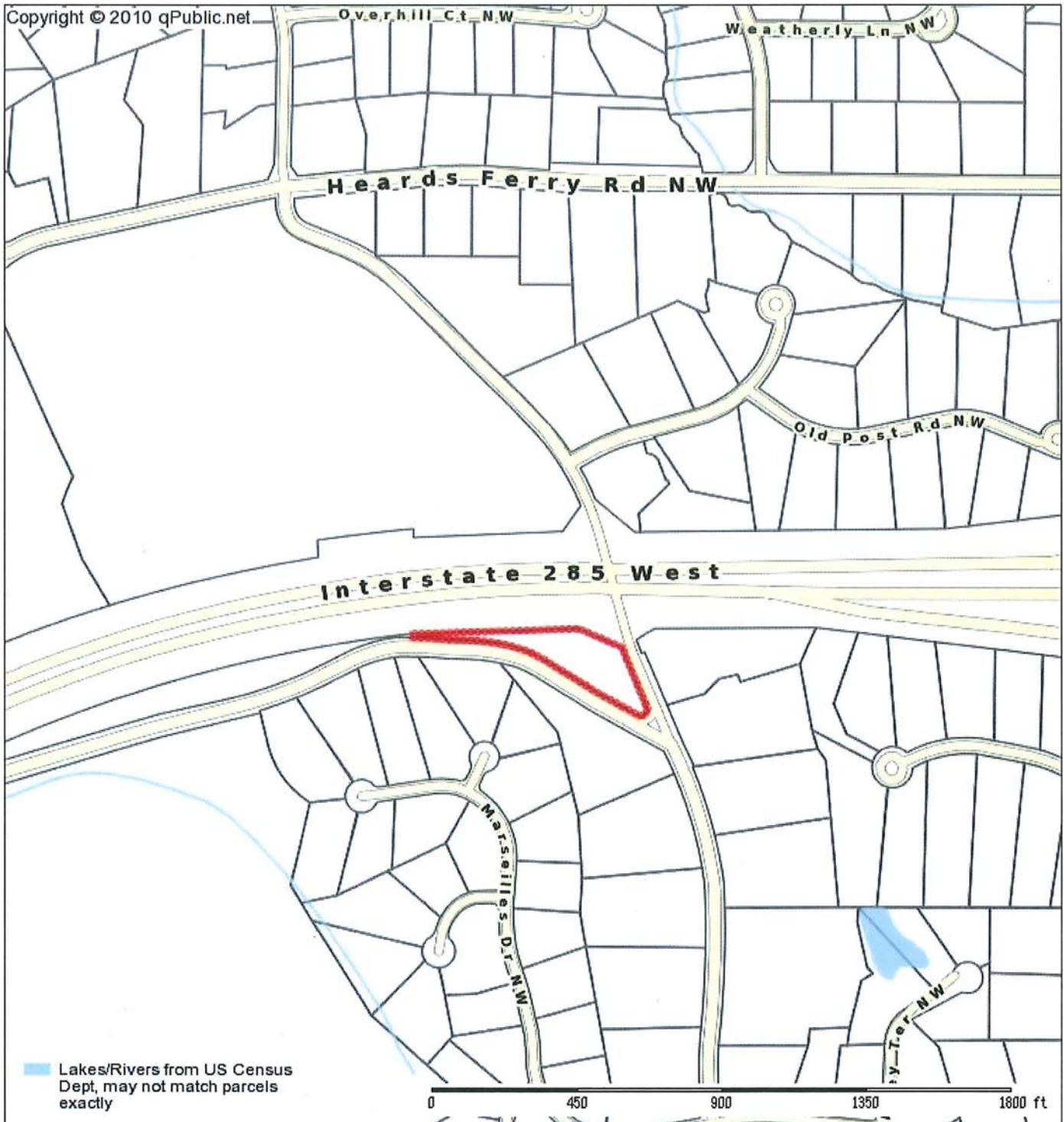
Parcel: 17 0166 LL0484 Acres: 1.43

Name:	ING USA ANNUITY & LIFE INSURANCE COMPANY	Land Value:	154400
Site:	POWERS FERRY RD	Building Value:	0
Sale:	\$0 on 2005-05-05 Reason=M Qual=U	Misc Value:	
Mail:	1 ORANGE WAY WINDSOR, CT 06095-4774	Total Value:	154400



Fulton County makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The assessment information is from the last certified taxroll. All data is subject to change before the next certified taxroll.

Date printed: 01/15/15 : 12:15:02



Voya Insurance and Annuity Company

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Date printed: 01/15/15 : 12:14:09

**OPTION TO PURCHASE RIGHT OF WAY, PERMANENT DRAINAGE and TEMPORARY CONSTRUCTION
EASEMENTS**

STATE OF GEORGIA, FULTON COUNTY

THIS OPTION TO PURCHASE RIGHT OF WAY, PERMANENT DRAINAGE AND TEMPORARY CONSTRUCTION EASEMENTS (the "Agreement") is entered into as of the ____ day of January, 2015 (the "Effective Date"), by and between **VOYA INSURANCE AND ANNUITY COMPANY** ("Seller"), an Iowa corporation with an address of One Orange Way (C4-N), Windsor, Connecticut 06095 and **CITY OF SANDY SPRINGS, GEORGIA** ("Buyer"), a Georgia municipality having an address of _____.

1. For and in consideration of the sum of One Dollar (\$1.00), receipt whereof being acknowledged, and subject to the terms and conditions of this Agreement, Seller hereby grants to the Buyer an option to acquire:

7,885.34 square feet of Fee Simple Right of Way (the "**Right of Way**"); a 453.05 square foot Permanent Drainage Easement (the "**Drainage Easement**"); and a 10,870.54 square foot Temporary Construction Easement (the "**Construction Easement**", together with the Drainage Easement and the Right of way, the "**Property**") all on and over that tract or parcel of land located in Land Lot 166 of the 17th District, of Fulton County, Georgia, and being more particularly described on Exhibits "A" and "B" attached hereto and made a part hereof by reference (the "**Option**").

2. The following conditions are imposed upon the grant of this option:

- A. This option shall expire 90 days from the Effective Date (the "**Expiration Date**");
- B. The purchase price of the Property shall be Seventy-One Thousand Two Hundred Twenty-Five Dollars and 00/100 (\$71,225.00) (the "**Purchase Price**");
- C. The Construction Easement will terminate in accordance with its terms;
- D. Special Provisions, if any, are listed on Exhibit "C", which will be attached hereto and incorporated herein by reference; and
- E. The Buyer may exercise its option to purchase the Property under this Agreement only by giving notice, in writing, to Seller on or before the Expiration Date. Notice shall be deemed given upon receipt by Seller.

3. Within thirty (30) days of Buyer exercising its Option under this Agreement, Buyer shall deliver to the Seller the Purchase Price in exchange for and of even date with Seller delivering to Buyer:

- A. A right of way deed conveying the Property to Buyer in the form of Exhibit "D" attached hereto and made part hereof;
- B. An original executed non-exclusive easement, without representations and warranties in the form of Exhibit "E" attached hereto and made part hereof establishing the Drainage Easement; and
- C. An original executed non-exclusive temporary easement, without representations and warranties in the form of Exhibit "F" attached hereto and made part hereof establishing the Construction Easement.

4. This Agreement may be executed in two or more counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same instrument.

[Signatures on following page]

Witness my hand and seal this _____ day of _____, 2015.

SELLER:

Signed, Sealed and Delivered in
the in the presence of:

Voya Insurance and Annuity Company


Witness

By:  (SEAL)

Name: Ronald Falkner
Title: Vice President


Notary Public

DENISE A PILLARELLA
NOTARY PUBLIC
CONNECTICUT
MY COMMISSION EXPIRES 7/31/18

Legal Approval:
Mayo Crowe LLC

(Initial)

BUYER:

Signed, Sealed and Delivered in
the in the presence of:

City of Sandy Springs

Witness

By: _____ (SEAL)

Name:

Title:

Notary Public

EXHIBIT "A" Page 1 of 2

LEGAL DESCRIPTION/ REQUIRED RIGHT OF WAY

CITY OF SANDY SPRINGS

FULTON COUNTY, GEORGIA

PROJECT: T-7229 Powers Ferry Road at Heards Road Intersection Improvements

0 POWERS FERRY ROAD

PARCEL NO. 1/ Voya Insurance and Annuity Company

ALL THAT TRACT or parcel of land lying and being in Land Lot 166 of the 17th District, City of Sandy Springs, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point 26.53 feet right and opposite of Station 206+54.64 on City of Sandy Springs Powers Ferry Road at Heards Road Intersection Improvements Project No.T-7229 (N 1424174.879650 E 2221599.904708); running thence southwesterly 53.32 feet along the arc of a curve (said curve having a radius of 31.83 feet and a chord distance of 47.30 feet on a bearing of S 65°16'26.4" W) to the point 29.16 feet right of and opposite station 206+10.65 on said construction centerline laid out for POWERS FERRY ROAD; thence N 60°02'34.4" W a distance of 59.43 feet to a point 7.79 feet left of and opposite station 205+66.76 on said construction centerline laid out for POWERS FERRY ROAD; thence N 59°55'19.1" W a distance of 91.21 feet to a point 25.74 feet left of and opposite station 204+67.19 on said construction centerline laid out for POWERS FERRY ROAD; thence N 58°01'19.1" W a distance of 166.52 feet to a point 24.74 feet left of and opposite station 203+01.47 on said construction centerline laid out for POWERS FERRY ROAD; thence northwesterly 127.03 feet along the arc of a curve (said curve having a radius of 384.44 feet and a chord distance of 126.46 feet on a bearing of N 67°46'14.2" W) to the point 25.22 feet left of and opposite station 201+82.00 on said construction centerline laid out for POWERS FERRY ROAD; thence southeasterly 141.82 feet along the arc of a curve (said curve having a radius of 435.00 feet and a chord distance of 141.19 feet on a bearing of S 69°47'16.4" E) to the point 32.00 feet left of and opposite station 203+14.22 on said construction centerline laid out for POWERS FERRY ROAD; thence S 57°36'12.0" E a distance of 168.71 feet to a point 32.00 feet left of and opposite station 204+82.93 on said construction centerline laid out for POWERS FERRY ROAD; thence southeasterly 60.63 feet along the arc of a curve (said curve having a radius of 118.00 feet and a chord distance of 59.96 feet on a bearing of S 72°19'22.2" E) to the point 32.00 feet left of and opposite station 205+60.00 on said construction centerline laid out for POWERS FERRY ROAD; thence N 46°07'45.4" E a distance of 73.21 feet to a point 38.81 feet left of and opposite station 109+55.00 on said construction centerline laid out for HEARDS ROAD; thence S 23°05'20.8" E a distance of 96.55 feet to a point 26.55 feet right of and opposite station 206+44.89 on said construction centerline laid out for POWERS FERRY ROAD; thence N 66°54'39.6" E a distance of 9.75 feet back to the point of beginning. **Said parcel contains 7,885.34 Square Feet or 0.181 acres of land, more or less.**

LEGAL DESCRIPTION/ PERMANENT DRAINAGE EASEMENT

CITY OF SANDY SPRINGS

FULTON COUNTY, GEORGIA

PROJECT: T-7229 Powers Ferry Road at Heards Road Intersection Improvements

0 POWERS FERRY ROAD

PARCEL NO. 1/ Voya Insurance and Annuity Company

ALL THAT TRACT or parcel of land lying and being in Land Lot 166 of the 17th District, City of Sandy Springs, Fulton County, Georgia and being more particularly described as follows:

BEGINNING at a point 28.87 feet left and opposite of Station 202+55.00 on City of Sandy Springs Powers Ferry Road at Heards Road Intersection Improvements Project No.T-7229 (N 1424345.022550 E 2221243.102632); running thence N 23°54'51.2" E a distance of 21.13 feet to a point 50.00 feet left of and opposite station 202+55.00 on said construction centerline laid out for POWERS FERRY ROAD; thence southeasterly 22.50 feet along the arc of a curve (said curve having a radius of 450.00 feet and a chord distance of 22.50 feet on a bearing of S 64°39'12.2" E) to the point 50.00 feet left of and opposite station 202+75.00 on said construction centerline laid out for POWERS FERRY ROAD; thence S 26°46'44.4" W a distance of 20.08 feet to a point 29.92 feet left of and opposite station 202+75.00 on said construction centerline laid out for POWERS FERRY ROAD; thence northwesterly 21.49 feet along the arc of a curve (said curve having a radius of 435.00 feet and a chord distance of 21.49 feet on a bearing of N 67°26'09.5" W) back to the point of beginning. **Said parcel contains 453.05 Square Feet or 0.010 acres of land, more or less.**

EXHIBIT "B"

Exhibit B

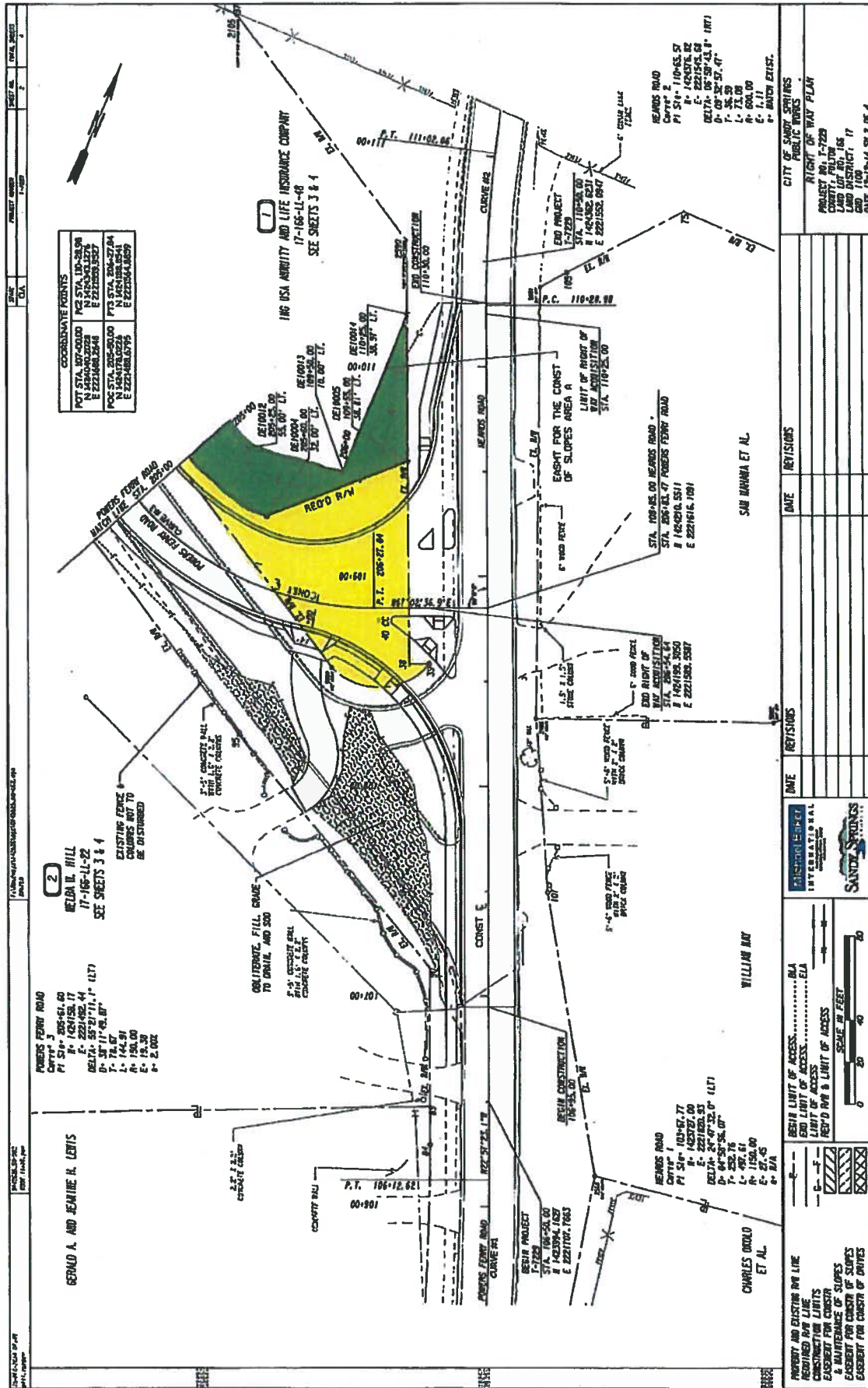
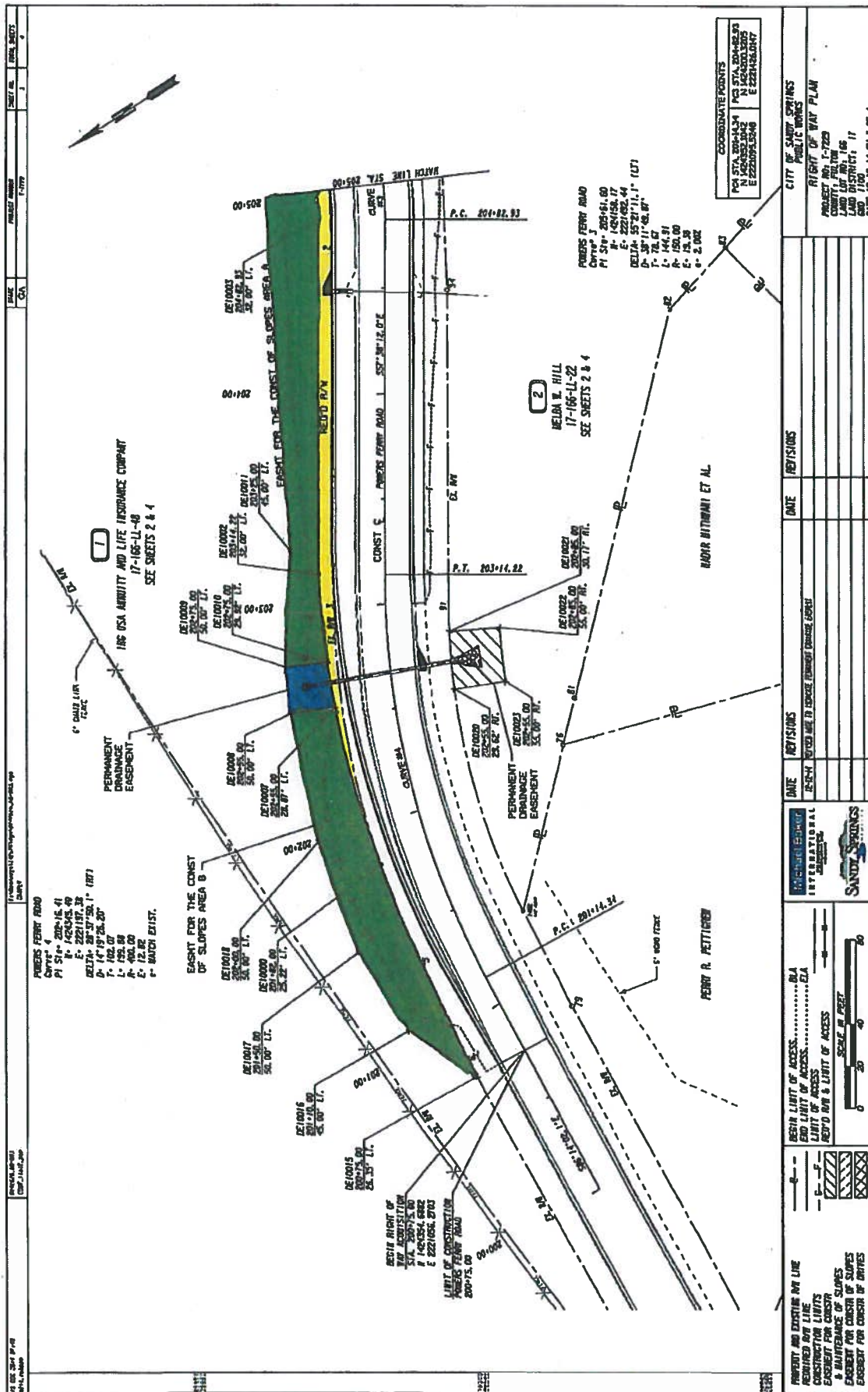


Exhibit B



DATE: 10/17/2008
PAGE: 1

1

THE USA LIABILITY AND LIFE / INSURANCE COMPANY

DATE: 10/17/2008
PAGE: 1

PROJECT 1: 10/17/2008

REVISIONS:

1. 10/17/2008

REV	DATE	DESCRIPTION	BY	CHK
1	10/17/2008	10/17/2008	10/17/2008	10/17/2008
2	10/17/2008	10/17/2008	10/17/2008	10/17/2008
3	10/17/2008	10/17/2008	10/17/2008	10/17/2008
4	10/17/2008	10/17/2008	10/17/2008	10/17/2008
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47	10/17/2008	10/17/2008	10/17/2008	10/17/2008
48	10/17/2008	10/17/2008		

[illegible]

EXHIBIT "C"

1. The Buyer shall direct its contractor to remove any fallen trees and stumps that lie within the required right of way, permanent drainage easement or temporary construction easements and fine grade the areas and perform customary soil stabilization remedies for erosion control measures.

EXHIBIT "D"

RIGHT OF WAY DEED

**STATE OF GEORGIA
FULTON COUNTY**

THIS INDENTURE, made this _____ day of _____, 2015, between Voya Insurance and Annuity Company ("Grantor"), party of the first part, and The City of Sandy Springs, a Municipal Corporation of the State of Georgia ("Grantee"), party of the second part.

WITNESSETH, That for and in consideration of the sum of One Dollar (\$1.00) and other good and valuable considerations, in hand paid and the project hereinafter described, Grantor does grant and convey unto Grantee, its successors and assigns, the following property to-wit:

That tract of land lying and being in Land Lot 166 of the 17th Land District of Fulton County, Georgia, and more particularly described as follows:

See Exhibits "A" and "B"

It is the intent of both parties that the City of Sandy Springs, GA shall acquire a total of 7,885.34 square feet of fee simple right of way for the purpose of intersection improvements related to Project Number T-7229 Powers Ferry Road @ Heards Drive Intersection.

To have and to hold the bargained premises unto Grantee, its successors and assigns forever in fee simple.

Grantor will warrant and defend the title to said premises unto the said Grantee and unto Grantee's successors and assigns, against the lawful claims and demands of all persons claiming under or through Grantor, but not otherwise.

IN WITNESS WHEREOF, parties of the first part has(have) hereunto set its/his/her/their hand(s) and seal (s) the day and year above written.

Signed, sealed and delivered
in the presence of:

Voya Insurance and Annuity Company

Witness

By: _____ (SEAL)

Name: Ronald Falkner
Title: Vice President

Notary Public

EXHIBIT "E"

NON-EXCLUSIVE PERMANENT DRAINAGE EASEMENT

**STATE OF GEORGIA
FULTON COUNTY**

THIS AGREEMENT is entered into the _____ day of _____ in the year of 2015, between VOYA INSURANCE AND ANNUITY COMPANY herein referred to as the "Grantor", and the CITY OF SANDY SPRINGS, GA. hereinafter called the "Grantee".

THAT WHEREAS, Grantee is desirous of obtaining a 453.05 square foot Permanent Drainage Easement upon and across the property of Grantor, located in Land Lot 166 of Land District 17 of Fulton County, GA, as is more particularly described in Exhibits "A" and "B" attached hereto and incorporated herein by reference, and:

WHEREAS, Grantor desires to convey said permanent drainage easement and any and all improvements located within said permanent drainage easement in and to the said described property as is further shown on the drawing attached as Exhibits "A" and "B", incorporated herein by reference.

NOW, THEREFORE, in consideration of the foregoing recitals and ONE DOLLAR (\$1.00), the receipt and sufficiency of which are hereby acknowledged by Grantor, Grantor does hereby sell and convey to the City of Sandy Springs, GA a non-exclusive Permanent Drainage Easement as described on and illustrated on Exhibits "A" and "B", attached hereto and incorporated herein by reference solely for the purposes of storm water drainage.

By accepting this easement, Grantee agrees that it shall maintain, repair and replace all improvements located within the easement area in good first-class condition, at its sole expense.

The easement herein shall bind the heirs and assigns of the undersigned party, and shall inure to the benefit of the successors in title of Grantee.

IN WITNESS WHEREOF, the Grantor has signed and sealed this deed, the day and year first above written.

Signed, sealed and delivered in the presence of:

Voya Insurance and Annuity Company

By: _____(SEAL)

Name: Ronald Falkner
Title: Vice President

Witness

Notary Public

EXHIBIT "F"

TEMPORARY NON-EXCLUSIVE CONSTRUCTION EASEMENT

**STATE OF GEORGIA
FULTON COUNTY**

THIS CONVEYANCE made and executed the _____ day of _____, 2014.

WHEREAS, the City of Sandy Springs in the County of Fulton, Georgia desires to construct an intersection improvement project along Powers Ferry Road known as Project No. T-7229

NOW, Therefore, for value received, Voya Insurance and Annuity Company does hereby grant to the City of Sandy Springs, GA, (the "City") the non-exclusive right to execute certain construction over and upon my land abutting on and adjacent to the right of way in such reasonable manner as the City may deem proper to support or accommodate the improvements of said project, including the right to slope the adjacent ground to tie in with the sidewalk elevations shown on the attached plat labeled Exhibit "A", provided that (i) all such activities are in accordance with applicable laws and first-class construction practices; (ii) that no such activities shall unreasonably interfere with our use and enjoyment of our land; and (iii) the City shall remove any debris and grade and seed any affected areas promptly following construction. The slopes will remain in place and the City will cease to maintain the slopes upon completion and final acceptance of the project by the City of Sandy Springs Public Works Department.

This easement becomes effective at the beginning of construction of the above numbered project and will expire upon completion and final acceptance of said project by the City of Sandy Springs Public Works Department.

We hereby warrant that we have the right to sell and/or convey said land and bind, ourselves, our heirs, executors and administrators forever and defend by virtue of these presents.

In Witnesseth whereof, we have hereunto set our hands and seal the day above written.

Signed, Sealed and Delivered this _____ day of _____, 2015 in the presence of:

Voya Insurance and Annuity Company

Witness

By: _____ (SEAL)

Name: Ronald Falkner

Title: Vice President

Notary Public

{NOTARY SEAL}

STATE OF GEORGIA
COUNTY OF FULTON

A RESOLUTION TO ACCEPT THE OPTION TO PURCHASE RIGHT OF WAY, PERMANENT DRAINAGE AND TEMPORARY CONSTRUCTION EASEMENTS ON PROPERTY LOCATED IN LAND LOT 166 OF THE 17th DISTRICT, CITY OF SANDY SPRINGS, FULTON COUNTY, GEORGIA

WHEREAS, it is necessary, from time to time, to establish policies, procedures and guidelines consistent with the administration of a municipal government consistent with the US Constitution, Federal Statutes, alignment with Federal, Georgia's State Constitution, and the Charter for the City of Sandy Springs, and

WHEREAS, the City Manager directed the Department of Public Works to develop standard policies for recurring matters, to establish appropriate internal controls and legal compliance, and to provide for an efficient and effective means to serve constituents; and

WHEREAS, the Department of Public Works, in response to the guidance provided by the City Manager, has reviewed and approves the acceptance of the Option to Purchase Right of Way, Permanent Drainage and Temporary Construction Easements by the City of Sandy Springs for property located at the intersection of Powers Ferry Road and Heards Drive in Land Lot 166 of the 17th District, Fulton County, City of Sandy Springs, Georgia

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF SANDY SPRINGS, GEORGIA

To facilitate the construction of the T-7229 Powers Ferry Road @ Heards Drive Intersection Project, the City approves the acceptance of the Option to Purchase Right of Way, Permanent Drainage and Temporary Construction Easements on property located in Land Lot 166 of the 17th District, Fulton County, City of Sandy Springs, Georgia.

RESOLVED this 3rd day of February, 2015.

APPROVED:

Russell K. Paul, Mayor

Attest:

Michael Casey, City Clerk
(Seal)